

COMMONWEALTH OF MASSACHUSETTS
DEPARTMENT OF TELECOMMUNICATIONS AND ENERGY

| |
|---|
| Boston Edison Company Cambridge Electric Company Commonwealth Electric Company d/b/a/ NStar Electric |
|---|

M.D.T.E. 03-121

INITIAL COMMENT OF THE JOINT SUPPORTERS

Co-Energy America, Inc., Predicate LLC, NAESCO, Siemens Building Technologies, District One, The E Cubed Company, L.L.C. (“E Cubed”), Energy Concepts Engineering PC, Dgsolutions LLC, Allied Utility Network, LLC, and the Pace Law School Energy Project (collectively, the “Joint Supporters”) submit this initial written comment. This filing supplements the sworn comments by Ruben Brown at the Public Hearing on February 10, 2004, the timely petition for intervention filed by E Cubed and the Joint Supporters on February 3, 2004, and the Appearance of Counsel and Reply of The E Cubed Company, LLC and the Joint Supporters to NStar Electric’s Response to Petitions to Intervene filed on February 13, 2004.¹

Statement of Interest

E Cubed and the Joint Supporters participated in DTE 02-38, submitting both written comments and oral remarks in August 2002. They called for generic treatment of standby rate issues before addressing compliance in specific cases, dealing with standardization of interconnection issues for distributed generation (“DG”), recognition of the benefits of

¹ On February 10, 2004, NStar Electric filed an opposition to various petitions to intervene, including that of E Cubed and the Joint Supporters, arguing that E Cubed and the Joint Supporters should be granted limited participant status. In accordance with the Hearing Officer’s order at the February 10, 2004, procedural conference, E Cubed and the Joint Supporters filed on February 13, 2004, an Appearance of Counsel and a Reply of the E Cubed Company, LLC and the Joint Supporters to NStar Electric’s Response to Petitions to Intervene.

distributed resources as offsetting standby rates, clear opportunities to interface with ISO-New England's Load Response programs, and creation of interruptible standby rates. They offered to work toward amicable solutions by fully collaborating in implementing the 02-38 mandates.

In DTE 02-38 A (2003), in which the Collaborative produced the draft "Tariff to Accompany Proposed Uniform Standards for Interconnecting Distributed Generation in Massachusetts," the six core DG industry stakeholders included from the beginning E Cubed, NAESCO, and Ingersoll Rand Energy Systems.² UTC Power, which is appearing separately in this docket but which is cooperating with the Joint Supporters for technical and other purposes, was a fourth member of the six DG industry core group members.³ The Joint Supporters' credentials and commitment to the Massachusetts DTE's unfolding DG process is demonstrated and real. We have made the informal and less rigid process work and we have worked within it. Most importantly we have been able to enlist and mobilize DG and end-user parties in a less formal phase than the adjudicative phase that NSTAR Electric has launched.

The oral remarks delivered by Ruben Brown on February 10, 2004 indicated that the Joint Supporters perceive that, based upon their experience with the development of standby rates in New York State in a generic collaboration and then in contested compliance processes, it would be a most effective use of resources for the Department and the interested stakeholders first to conduct a less formal generic process under Hearing Officer supervision, followed by a

² At the time of the DG collaborative Ingersoll Rand Energy Systems participated actively in Joint Supporters standby rate evidentiary interventions in other jurisdictions. IRES is not participating in the current intervention in 03-121. Dgsolutions LLC, is owned and operated by Daniel Dowiak, former regional representative of IRES in standby rate interventions.

³ The other two core DG industry representatives were SEBANE and RealEnergy, et. al., which are appearing separately in this docket.

test compliance case for a single or group of affiliated utilities under Hearing Officer supervision, and then compliance cases for the other utilities.

In that regard, the Joint Supporters would now support the motion of the New England DG Coalition to dismiss the January 16, 2004, filing of NSTAR Electric and proceed to a generic examination of issues in a suitable extension of DTE 02-38 or other venue.

In its June 13, 2002, Order Opening Investigation Into Distributed Generation, the DTE noted that it had previously “recognized that there may be technical, economic, and regulatory barriers to distributed generation. Specifically, we noted that ‘[t]he lack of uniformity and uncertainty regarding interconnection standards and back-up rates could be inhibiting the installation of distributed generation in Massachusetts.’ DTE 01-54, at 11.” DTE 02-38 at 2. The DTE was correct that uniformity is preferable to a patch work quilt of standby rate structures and levels. Proceeding to adjudicate NSTAR Electric’s proposed tariff in isolation would be contrary to the goal of such uniformity in rate structure.

Further, in its June 13, 2002 Order, the DTE identified three issues for the initial phase of the investigation into distributed generation: interconnection standards, standby rates and the role of distributed generation in distribution system planning. DTE 02-38 at 2. On the issue of standby rates, the DTE indicated interest in examining “the appropriate method for the calculation of standby or back-up rates and other charges associated with the installation of distributed generation”. DTE 02-38 at 2. The DTE was correct to observe that the way to establish standby rates which will not be a barrier to deployment of distributed generation is for the DTE to develop the appropriate methodology. The DTE should proceed exactly along the course it set forward at the outset of its investigation into distributed generation and develop a methodology that each of the state’s utilities will use to create new standby rate tariffs they will

subsequently file for approval. NSTAR Electric's filing of a standby rate tariff for approval prior to the DTE's consideration of the appropriate standby rate methodology is premature.

One alternative informal process would seize upon the opportunity provided by the Massachusetts Technology Collaborative ("MTC") and discussed at the January 26, 2004 Symposium in Newton. A collaborative proceeding could address an array of issues bracketed in the Newton presentations that affect the design and determination of standby rates and DG benefits, employing the consulting assistance and inputs that facilitated the MTC with the Newton event. The collaborative process funded by the MTC and facilitated by Raab Associates that resulted in 02-38A's guidelines and tariff on interconnection can be effectively deployed to the instant purpose. It should be noted that a number of the key parties in the Interconnection Collaborative also worked with each other in the New England Demand Response Initiative ("NEDRI") which provided a broad context for the treatment of DG issues. The Joint Supporters, including E Cubed and NAESCO, were core members of the NEDRI process in 2002 and 2003.

This informal process could be directly focused on the development of DG standby costs and the benefits of having DG at distinct locations in the distribution and transmission system. The various ranges of issues identified at the Newton session by the facilitators and the panelists provide a reasonable starting point.

One argument in favor of further collaborative exploration is that when DG related issues have been considered by various states (standby charges in NY; a series of issues in CA; interconnection in Massachusetts, and Connecticut), a full record upon which commissions base their decision was made possible by the effort of the DG interests willing to participate. If Massachusetts follows the approach advocated by its utilities for strict legal process, it could

influence the level of participation, the quality of the record produced, and, thus, the outcome of the case and whether small clean power will be part of the state's energy mix.

In the event that the Department does not choose the avenue of dismissal or generic negotiation, then it should declare the precedential importance of this docket and extend the opportunity for additional interested and affected stakeholders in other utility areas to be informed of the significance of this proceeding and allowed to intervene.

Furthermore, the basic approach of the rate case filing needs to be examined carefully. A framework for the electricity costing and ratemaking process should consist of the following important components: (1) select and rank pricing objectives; (2) using costs as the basis for rates to meet pricing objectives; (3) examining alternative cost measures; (4) analyzing alternative cost of service methods; (5) designing rates; and (6) conducting related activities such as load research and customer education. The establishing of pricing goals or objectives is the primary component of a framework for the electricity costing and ratemaking process.

The NSTAR filing does not meet the following tests.

1. Tariffs should be based upon a strong foundation of structural supports. The structural supports for change are deficient in this case because of
 - a. The non-developed relationship between marginal costs and current rates.
 - b. The lack of load research
 - c. The lack of billing impacts
 - d. The lack of revenue targets
 - e. The lack of continuity in service means that the several tariffs filed are truly new tariffs.
 - f. The lack of transition arrangements.
 - g. Reasonable and standard ratemaking principles and PURPA guidelines have not been met by Company and Staff - A new hearing or re-hearing may be needed to evaluate any new rate design proposals for local generators using reasonable and standard ratemaking principles and PURPA guidelines.

2. PURPA requires that stand-by rates should be “fair and reasonable” and “non-discriminatory.”

It is not enough to create a situation so that customers with on-site generating facilities “existing” prior to the filing date are exempt and those customers starting after this date are subject to the tariff. A customer that has completed certain milestones prior to the “crossover date” should be deemed to be existing, e.g., engineering design, interconnection negotiations with the utility, funded by Massachusetts Technology Collaborative for an award, letter of intent, or other proof of action. The “crossover date” should be prospective, such as the date of the final Department Order and/or the effective date of the proposed tariff.

At the other end of the process, if a customer wants to end the proposed service the termination scenarios are excessively long and should be reduced across the board to thirty days.

Respectfully submitted,

CO-ENERGY AMERICA, INC., PREDICATE
LLC, NAESCO, SIEMENS BUILDING
TECHNOLOGY, THE E CUBED COMPANY,
L.L.C., ENERGY CONCEPT ENGINEERING,
AND DGSOLUTIONS LLC

By its attorneys,

Michael D. Vhay, Esq.
Bruce S. Barnett, Esq.
Piper Rudnick, LLP
One International Place
Boston, MA 02110

Dated: February 17, 2004

CERTIFICATE OF SERVICE

I hereby certify that I caused a copy of the attached Initial Comment of the Joint Supporters to be sent by first class mail to all of the persons named on the service list in the above-referenced proceeding this ____th day of February, 2004.

Bruce S. Barnett